
OLR Bill Analysis

sHB 6374

AN ACT CONCERNING COORDINATED LONG-TERM DISASTER RELIEF AND RECOVERY.

SUMMARY:

This bill establishes the Connecticut Coordinated Assistance and Recovery Endowment (CT CARE) as a tax exempt foundation, under a governing board, to support coordinated emergency recovery in cases where state services are affected by natural disasters, acts of domestic terrorism, catastrophic events, or other unforeseen emergencies. It establishes the Coordinated Emergency Recovery Fund (CERF), under the state treasurer's custody, to receive and disburse private funds to CT CARE to provide victims' relief and assistance to individuals, towns, and nonprofit organizations affected by such emergencies.

The bill subjects the foundation to many of the requirements governing other existing state foundations (such as the University of Connecticut Foundation). Among other things, the foundation must keep its books according to generally accepted accounting principles and be audited by either state auditors or an independent certified public accountant.

The bill designates the Department of Emergency Services and Public Protection (DESPP) as the state agency for which the foundation is established. It requires the foundation to have a written agreement with DESPP covering its use of DESPP's facilities and resources.

The bill requires the foundation to have a governing board. For each eligible incident, the board must establish a distribution committee to help it determine eligibility requirements for recipients of disbursements from any fund established by the foundation. An "eligible incident" is any emergency declared by a political subdivision

of the state; the governor; or two-thirds vote of the board, following a request by the governor.

EFFECTIVE DATE: Upon passage

CONNECTICUT CARE FOUNDATION

The bill establishes CT CARE as a tax exempt foundation to support coordinated emergency recovery. It defines “coordinated emergency recovery” as the support and improvement of state services affected by a natural disaster, an act of domestic terrorism, catastrophic event, or other unforeseen emergency, including services provided by DESPP or the Office of Victim Services (OVS).

The bill authorizes the foundation to accept disbursements from CERF and private gifts, grants, and donations to carry out its purposes.

Executive Authority

The bill designates DESPP as the state agency for which the foundation is established and DESPP’s deputy commissioner of the Division of Emergency Management and Homeland Security as the agency’s executive authority. The foundation itself is not a state or public agency. It is responsible for paying the salaries, benefits and expenses of officers and employees.

Agreements. The executive authority must ensure that there is an agreement between DESPP and the foundation covering the foundation’s use of DESPP’s facilities and resources, including any used to maintain foundation books. Foundation books and records kept by DESPP are not disclosable under the Freedom of Information Act (FOIA).

The agreement must also:

1. provide that the state is not liable for the foundation’s acts, omissions, or obligations;
2. require the foundation to reimburse the agency for any expenses incurred solely as a result of foundation operations;

3. provide that, if the foundation ceases to exist, or to be a foundation, it may not use DESPP's name, and its records, or copies of them, will be available to, and may be stored by, the agency, but exempt from FOIA; and
4. provide for disposition of the foundation's assets.

Audits. The executive authority must ensure that the foundation's books and accounts are fully audited by an independent certified public accountant or, if requested by the state agency with the foundation's consent, the state auditors.

An audit of the foundation's books must be conducted for any fiscal year in which the foundation (1) has funds in excess of \$100,000 in the aggregate or (2) responds to an eligible incident. If the foundation receives and earns less than \$100,000 in any of three consecutive years, it must have an audit of the third year, unless it had an audit completed on its behalf in any year in the three-year period. It must provide copies of its audit reports to the DESPP executive authority and attorney general. Under the bill, existing foundations must provide copies to the attorney general as well, not just the executive authority.

Audits must be conducted in accordance with generally accepted accounting standards. The audit report must contain financial statements, a management letter, and an audit opinion addressing how the foundation's operating procedures conforms with the bill and recommending any necessary corrective steps. A financial statement must show the donation's total receipts and earnings for the fiscal year covered and the amount and purpose of each of its donations to the agency. The foundation may adopt any 12-month period as its fiscal year.

The bill requires the foundation to provide copies of its audit reports to the executive authority of the state agency and the attorney general (§ 2). It also requires existing foundations to provide copies to the attorney general, not just to the executive authority, as they currently do.

CT CARE GOVERNING BOARD

The bill gives the executive authority responsibility for ensuring that the foundation is administered by a governing board and specifies the board's composition, duties, and legal obligations.

Board employees are not state employees.

Membership

Voting Members. The governing board consists of the following voting members:

1. seven gubernatorial appointees, who serve at the governor's pleasure, with experience in finance or accounting or running a nonprofit or other corporation;
2. the Office of Policy and Management (OPM) secretary or a designee;
3. the DESPP deputy commissioner with jurisdiction over the Division of Emergency Management and Homeland Security or a designee;
4. an OVS member;
5. the chairperson of each regional emergency planning team established by the Division of Emergency Management and Homeland Security; and
6. two members, appointed by the Connecticut Council for Philanthropy, whose terms are coterminous with that of the governor, except the terms must extend through the duration of an eligible incident, and after the expiration of the terms through any period in which new appointments to replace such members have yet to be made.

Nonvoting Members. The following members or their designees serve as nonvoting members in an advisory capacity, in a manner determined by the executive committee (described below):

1. the state emergency management director;
2. the social services commissioner;
3. the insurance commissioner,
4. the executive directors of the Connecticut Conference of Municipalities' (CCM) and Connecticut Council of Small Towns; and
5. other people, as the executive committee determines.

The CCM and Council of Small Towns members' terms are coterminous with the governor's term, provided the members' terms must extend through the duration of an eligible incident.

Deadlines. All appointments to the governing board must be made within 30 days after the bill passes. Vacancies must be filled by the appointing authority. The governor must select the chairperson, who must call the first board meeting within 60 days after the bill passes.

Board Duties

The governing board must:

1. adopt policies, bylaws, and governing documents, and undertake other measures to (a) ensure that the foundation receives and maintains federal tax exempt status and (b) receive and distribute funds donated in response to an eligible incident;
2. register the CT CARE Fund with applicable state or federal agencies;
3. establish best practices for operating and administering the CT CARE Fund to provide coordinated emergency recovery;
4. in anticipation of eligible incidents, create objective guidelines, protocols, or scenarios tailored to respond to foreseeable eligible incidents;
5. take actions necessary to ensure financial independence and

sustainability, which may include soliciting private donations to fund its operations with restricted or endowment funds;

6. for each eligible incident, certify to the governor and the state treasurer that the foundation is ready, willing, and able to receive private donations and carry out coordinated emergency recovery;
7. establish a distribution committee, receive recommendations from the committee, and formally adopt any proposed formula to distribute victims' relief funds; and
8. fund its operations and pay its expenses from funding sources designated for the purpose.

Board Authority

The board may:

1. sue and be sued;
2. employ fiscal agents, accountants, legal counsel, or other professionals to carry out the foundation's purposes, such as an executive director or other staff the board deems necessary;
3. negotiate for services with state agencies or qualified nonprofit entities;
4. with exceptions, delegate decision making authority on the distribution of funds; and
5. consider and promote the concepts and best practices associated with coordinated emergency recovery.

Distribution Committee

For each eligible incident, the board must establish a distribution committee to help the board determine eligibility requirements for recipients of disbursements from any fund the foundation establishes. But any distribution must be made by action of the board.

The distribution committee consists of the (1) regional coordinator for the Division of Emergency Management and Homeland Security of any region affected; (2) chairperson of each regional emergency response team established by the division; and (3) chief executive officer for each affected municipality, in all three cases as determined by the board or as otherwise provided for in a declaration of emergency causing an incident to become eligible. The board chairperson must also appoint up to two residents of an affected municipality or municipalities to the board.

Executive Committee

The board must establish an executive committee and determine its membership. The committee must inform nonvoting board members of their roles as advisors and attend to any other duties the board prescribes for the committee.

CERF

Under the bill, the state treasurer is the custodian of CERF. It authorizes the treasurer to accept private gifts, grants, or donations for the fund. The funds received must be accounted for separately and apart from all other state money, and the full faith and credit of the state is pledged for their safekeeping. The bill specifies that any private gift or contribution intended for coordinated emergency recovery must not be put in the General Fund and cannot be considered General Fund appropriation.

The state treasurer or her designee must disburse CERF funds to the foundation upon (1) the declaration of an eligible incident and (2) receipt of the certification that the foundation is ready, willing, and able to accept funds and carry out coordinated emergency recovery.

Monthly, beginning by January 1, 2014, the state treasurer must submit a report to the governor and attorney general on CERF's financial condition. The report must include (1) an estimate of the fund's value on the report date, (2) the effect of disbursements and scheduled disbursements on its value, and (3) an estimate of the monthly administrative costs necessary to operate the fund.

Victims' Relief and Assistance

CERF must provide victims' relief and assistance to individuals, municipalities, nonprofit organizations, and other eligible recipients affected by an eligible incident. The bill defines "victims' relief" as direct financial payments to individuals the board determines are most affected by an eligible incident. It defines "assistance" as money payable by the CT CARE foundation, other than victims' relief, to help affected individuals and municipalities.

Procedural Issues

Upon the declaration of each eligible incident, the board must establish the following three funds to provide victims' relief and assistance, but may also establish other funds it deems necessary or desirable to provide coordinated emergency recovery:

1. a victim's relief fund to provide victims' relief in accordance with the formula adopted by the board under the bill;
2. an individual assistance fund to provide needs-based assistance to affected individuals; and
3. a public assistance fund to provide local emergency funding to affected municipalities, nonprofit organizations, and other eligible recipients.

These funds must contain money disbursed to the foundation by the state treasurer. If the money in any of the funds, other than the victims' relief fund, is insufficient to provide full assistance, the board may, at its discretion, provide assistance on a pro rata basis. Any victims' relief or assistance provided under the bill is deemed unavailable for repaying assistance given by the Federal Emergency Management Agency.

Permanent Endowment Funds

The bill allows the board to establish permanent endowment funds, including a permanently unrestricted fund to pay the foundation's operating expenses. The board must administer the endowment funds, which must be held in a trust fund with a bank or trust

company separate and apart from all other foundation funds and accounts. Any endowment fund eligible gifts must be deposited in the endowment fund, as must any interest or other income earned on the fund' investments pending application or transfer or use of earnings on the principal for the fund's purposes.

The bill defines an "endowment fund eligible gift" as a private gift made for the foundation's benefit, which (1) has been specifically designated for deposit in an endowment fund or (2) explicitly or implicitly by the terms of the gift, the foundation may and does deposit or permit to be deposited in an endowment fund.

COMMITTEE ACTION

Public Safety and Security Committee

Joint Favorable Substitute

Yea 15 Nay 9 (03/21/2013)